

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MICHAEL-EDWARD and TAMMIE-
MARIE,

Plaintiffs,

v.

U.S. BANK NATIONAL ASSOCIATION
N.A., et al.,

Defendants.

ORDER

Civil No. 08-1108-HU

HAGGERTY, Chief Judge:

Magistrate Judge Hubel referred to this court a Findings and Recommendation [11] in this matter. Judge Hubel recommends that defendants' Motions to Dismiss [4, 8, 10] be granted on the ground that this court lacks subject matter jurisdiction. Plaintiffs, acting *pro se*, filed timely objections to the Findings and Recommendation, and defendants filed a timely response. For the following reasons, this court adopts the Findings and Recommendation.

STANDARDS

When a party objects to any portion of a Findings and Recommendation, the district court must conduct a *de novo* review. 28 U.S.C. § 636(b)(1)(B); *McDonnell Douglas Corp. v. Commodore Bus. Mach. Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). The court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge." 28 U.S.C. § 636(b)(1).

BACKGROUND

The Findings and Recommendation contains a detailed factual summary outlining the history of this matter, and the facts will not be fully repeated here. Plaintiffs bring this action against U.S. Bank National Association (U.S. Bank); Routh Crabtree Olsen, P.C. (RCO); two attorneys associated with RCO, Janaya Lee Carter and Teresa M. Shill; Nancy E. Hochman; Thomas W. Kohl; Rob Gordon; Malia Wasson; and Jerry A. Grundhofer. This suit stems from the foreclosure sale of, and subsequent eviction of plaintiffs from, 6732 Southwest Terri Court, Portland, Oregon 97225.

The substance of plaintiff's complaint relates to the eviction proceedings in the Circuit Court of the State of Oregon for Washington County, Case No. C08-1679EV. Plaintiff's title their complaint as a "Libel in Review," and "Counterclaim and Injunction in Admiralty." Defendants move to dismiss on several grounds including lack of subject matter jurisdiction, lack of personal jurisdiction, improper service of process, failure to state a claim, and claim preclusion.

DISCUSSION

The Findings and Recommendation found that this court does not have subject matter jurisdiction over this case and recommended granting defendants' Motions to Dismiss. The

Findings and Recommendation correctly notes that despite the fact that the action is titled a libel in admiralty, this case has no relationship to any maritime issues and no admiralty jurisdiction exists. Findings and Recommendation at 4. Moreover, no federal question jurisdiction exists despite plaintiffs' references to the Constitution and a variety of federal laws. *Id.* at 5.

Plaintiffs' objections to the Findings and Recommendation provide no meritorious argument. The Ninth Circuit upholds a "policy of liberal construction in favor of *pro se* litigants." *Rand v. Rowland*, 154 F.3d 952, 957 (9th Cir. 1998). Litigants have a statutory right to self-representation in civil matters, *see* 28 U.S.C. § 1654 (1982), and are entitled to meaningful access to the courts. *Rand*, 154 F.3d at 957, citing *Bounds v. Smith*, 430 U.S. 817, 823 (1977). "Consequently, we tolerate informalities from civil *pro se* litigants." *Id.* (citations omitted). This court often gives *pro se* plaintiffs a warning when their case is subject to dismissal in order to give them the opportunity to cure any defects in their Complaint. In this case however, no such warnings are necessary, as plaintiffs' Complaint is incurable.

This court has reviewed the entire record and has conducted a *de novo* review of the Findings and Recommendation. The Findings and Recommendation is well reasoned and without error. This court adopts the Findings and Recommendation in its entirety.

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CONCLUSION

For the foregoing reasons, the court adopts the Findings and Recommendation [11].

Defendants' Motions to Dismiss [4, 8, 10] are granted. Plaintiffs' claims are dismissed with prejudice.

IT IS SO ORDERED.

DATED this 13 day of January, 2009.

/s/ Ancer L. Haggerty
Ancer L. Haggerty
United States District Judge